IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL No. 646 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 15/12/2004 in WP No. 3825 OF 2004 on the file of the High Court.)

Between:

Osmania University,

represented by its Registrar, Hyderabad.

..... APPELLANT

AND

1 M.Rajesh, S/o.Justice M.Narayana Reddy
R/o.Plot No.39, Raod No.7 Prashasan Nagar, Jubilee Hills, Hyderabad.
2. The Andhra University, Waltair, Visakhapatnam District.
represented by its Registrar.
3. Pendekanti Law College Hyderabad, represented by its Principal.

(R3 is not a necessary party in this Writ Appeal)

.....RESPONDENTS

Counsel for the Appellant: Mr. DEEPAK BHATTACHARJEE

Counsel for the Respondent No.1: MR.S.NIRANJAN REDDY

Counsel for Respondent No.2: Dr.P.B.Vijay Kumar

Counsel for Respondent No.3: ----

The Court made the following :

ORAL JUDGMENT:

(per Honourable Sri Devinder Gupta, the Chief Justice)

The order of the learned Single Judge is under challenge by the Osmania University in this Appeal, by which, the learned Single Judge allowed the Writ Petition No. 3825 of 2004 filed by the first respondent herein, thereby, setting aside the Memos dated: 15.3.2003 and 30.12.2003 with direction to the appellant-University to allow the petitioner to prosecute his studies recognizing the qualification awarded by the Andhra University in respect of the first three years of five-years LL.B. course as valid.

The facts, in brief, are that the writ petitioner got himself admitted in the Five-Year Law Degree Course in Andhra University at Visakhapatnam. While he was a student of LL.B. 3rd year in Five-Year Law Degree Course in Andhra University, he moved an application to the appellant seeking permission to get himself transferred to any of the Colleges under its jurisdiction. Such a request was turned down, which led to the writ petitioner filing of Writ Petition No. 13158 of 2002. It was allowed by the learned Single Judge of this Court on 13.8.2002. By the time the writ petition was allowed, the writ petitioner had completed his 3rd year of Five-Year Law Degree Course in Andhra University. Learned Single Judge held that since vacancies in the colleges within the jurisdiction of Osmania University, which were imparting Five-Year Law Degree Course, which is being regulated by the Bar Council of India, were available, and, there is not much disparity in the syllabus and other aspects, the order of the appellant-University not according permission to the writ petitioner to get himself transferred, was set aside. A direction was issued to the appellant-University to pass necessary orders permitting the writ petitioner to get himself transferred within a period of one week. Pursuant to this order, on 22.10.2002, writ petitioner was permitted to get himself transferred to any one of the Law Colleges in

the Twin Cities of Hyderabad and Secunderabad. The petitioner, however, was asked to submit certificates including Memo of Marks of I, II and III Years. After the Memos were obtained by the appellant, a letter was issued on 15.3.2003 to the writ petitioner stating that, on verification of the memorandum of marks, it is observed that he secured less than 45% marks in 14 subjects and only in five subjects, he secured 45% marks in Andhra University in the first three years of Five-Year Law Degree Course, whereas, as per the appellant University Rules, a candidate should secure 45% marks in each paper in order to pass the examination, and, therefore, it was advised that the writ petitioner should be transferred back to the Andhra University. Challenging the said order, Writ Petition was filed and in Writ Petition No. 24184 of 2003 decided on 24.11.2003, learned Single Judge directed the appellant University to consider and decide the petitioner's representation in accordance with the rules of the University. The appellant-University, then referred the matter to the Standing Committee of the Academic Senate, which resolved that the candidate has to pass all the fourteen papers under Osmania University and secure 45% marks as per the academic regulations of the Osmania University. This order was challenged by the writ petitioner by filing Writ Petition No. 3825 of 2004. Learned Single Judge, on due consideration of the matter, concluded that since the petitioner was admitted without taking any objection as to the marks secured by him while completing the Bachelor of Academic Laws, namely, I, II and III years of Five-Year Law Degree Course, the rules of appellant-University cannot be applied, since the same nowhere say that they will also apply to the candidates admitted by transfer from some other University and, thus, proceeded to allow the writ petition directing the appellant-University to allow the writ petitioner to prosecute his studies.

We have duly considered the submissions made at the Bar.

May be that that the appellant-University has a regulation that candidates admitted to Five-Year Law Degree Course must secure 45% of marks as per the academic regulations in all the papers so as to enable to qualify in the I, II and III year examinations of the appellant-University, but, in the absence of any rule that the same shall also apply to the transferred candidates, it was not open to the appellant-University to reject the representation of the petitioner and also in the absence of any material to show that the same standard is applied in the appellant-University and Andhra University in awarding marks. There may be different standards or different parameters in two separate Universities for awarding marks. A candidate

who is undergoing Five-Year Law Degree Course in Andhra University, in case, is qualified in the First, Second and Third Year examinations of that University as per the standards laid down by that University and has completed the subjects similar to the one prescribed for the I, II and III year examinations of the appellant-University, rejection by the appellant-University on the ground that in getting himself qualified in the I, II and III Year of Andhra University, he did not obtain minimum percentage of marks as per the standard laid down by the appellant-University will be irrational, unless it is demonstrated that in the matter of awarding marks, same standard is applied in both the Universities. The questions which have to be answered in the examination of Five-Year Law Degree Course are not in usual format as that of multiple-choice questions as are being asked in the Entrance Examinations, by which method, uniform evaluation can be made, but, are descriptive in nature and each question has to be answered by the candidate separately, and, may be that the Andhra University applied strict standards while evaluating the answer sheets, or, that the appellant-University is applying liberal standard in the matter of awarding marks. Therefore, learned Single Judge is justified in holding that in the absence of the rule requiring 45% of marks in each paper should also be applied to the transferred candidates, the action of the appellant is not justified. For that reason, we are not inclined to interfere in this Appeal, and, therefore, the Writ Appeal is dismissed.

In view of the fact that the writ petitioner has completed his remaining two years in the appellant-University and has not been issued mark-sheets so far, we direct that appellant-University will issue necessary mark-sheets within a period of two weeks from the date of the receipt of the writ order from this Court.

We make it clear that since no material was placed in this case as to the standard of evaluation in two different Universities, this judgment may not be treated as a precedent or laying down any rule of universal application.

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DEVINDER GUPTA, C.J.

24.3.2005. _____

B.SESHASAYANA REDDY, J.

VR.

To

1. The Registrar, Osmania University,

Hyderabad.

2. The Registrar, Andhra University, Waltair, Visakhapatnam District.

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